

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHARLES SCHELL,)	CASE NO. 4: 08 CV 640
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
MICHAEL J. ASTRUE,)	MEMORANDUM OPINION
COMMISSIONER OF SOCIAL SECURITY,)	AND ORDER
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge David S. Perelman, issued on January 14, 2009. (ECF # 14.) In the Report and Recommendation, Magistrate Judge Perelman recommended that the decision of the Administrative Law Judge (ALJ), which represents Defendant's final determination denying Plaintiff's claims for disability insurance benefits (DIB), 42 U.S.C. §§ 416, 423 and supplemental security income (SSI), 42 U.S.C. § 1381 *et seq.*, be reversed and remanded.

On January 28, 2009, Defendant filed Objections to the Report and Recommendation. (ECF # 15.) Plaintiff did not file a Response to Defendant's Objections.

In accordance with Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation of this case *de novo* and has considered all of the pleadings and filings of the parties. Further, this Court has reviewed the ALJ's findings in Plaintiff's administrative proceedings under the substantial evidence standard. After careful evaluation of the record, this Court declines to adopt the Report and Recommendation. (ECF # 14.)

In particular, this Court finds merit in Defendant's position that substantial evidence supported the ALJ's determination of Plaintiff's residual functional capacity, including Plaintiff's counselor and social worker record. This Court likewise finds merit in Defendant's

position that, although the ALJ did not expressly adopt Dr. Spring's testimony, ample evidence exists to demonstrate that he relied upon and indeed accepted such testimony. Finally, Defendant correctly states that the ALJ had no express obligation to consider the GAF scores in determining Plaintiff's mental residual functional capacity. Accordingly, Defendant's Objections to the Report and Recommendation are SUSTAINED. (ECF # 15.) This case is TERMINATED.

IT IS SO ORDERED.

s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: February 26, 2009